

United States
Circuit Court of Appeals 5
For the Ninth Circuit.

QUAN HING SUN and JUNG LIM,
Appellants,

vs.

EDWARD WHITE, Commissioner of Immigration
of the Port of San Francisco,
Appellee.

Transcript of Record.

Upon Appeal from the Southern Division of the
United States District Court for the
Northern District of California,
First Division.

FILED
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F. D. BURCHETT

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Names of Attorneys.

For the Petitioner and Appellant:

GEO. A. MCGOWAN, Esq., San Francisco.

For the Respondent and Appellee:

JOHN W. PRESTON, Esq., U. S. Attorney,
San Francisco, California.

*District Court of the United States, in and for
the Northern District of California, Southern
Division, First Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

Amended Praecipe for Transcript on Appeal.

To the Clerk of said Court:

Sir: Please make up Transcript of Appeal in the
above-entitled case, to be composed of the following
papers, to wit:

1. Petition for writ of habeas corpus.
2. Letter of Ralston & Richardson attached to
petition.
3. Order to show cause.
4. Return of respondents.
5. Minute order regarding immigration record.
6. Judgment and order dismissing order to show
cause and denying petition for writ.
7. Notice of appeal.
8. Assignment of errors.
9. Petition for appeal.

10. Order allowing appeal.
11. Citation on appeal.
12. Stipulation and order regarding immigration record.
13. Order extending time to docket case.
14. Clerk's certificate.

GEO. A. MCGOWAN,
Attorney for Petitioner. [1*]

Due service and receipt of a copy of the within is hereby admitted this 11 day of May, 1917.

JOHN W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed May 12, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

*In the District Court of the United States, in and for
the Northern District of California, First
Division.*

No. 16,028.

In the Matter of QUAN HING SUN, on Habeas
Corpus.

Petition for Writ.

To the Honorable MAURICE T. DOOLING, United
States District Judge, in and for the Northern
District of California, First Division:

The petition of Jung Lim respectfully shows:

That Quan Hing Sun, hereinafter in this petition

*Page-number appearing at foot of page of original certified Transcript of Record.

referred to as the “detained,” is unlawfully imprisoned, detained, confined and restrained of his liberty by Edward White, Commissioner of Immigration for the port of San Francisco at the Immigration Station at Angel Island, County of Marin, State and Northern District of California; that said imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to wit: That it is claimed by the said Commissioner that the said detained is a Chinese person and an alien not subject or entitled to admission into the United States under the terms and provisions of the Acts of Congress of May 6th, 1882, July 4th, 1884, November 3d, 1893, and the Act of Congress of April 29th, 1902, as amended and re-enacted by Section 5 of the Deficiency Act of April 7th, 1904, which said acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts; and that he, the said Commissioner, intends to deport the said detained Quan Hing Sun away from and out of the United States to the Empire of China. [3]

That the said Commissioner claims that the said detained arrived at the port of San Francisco on or about the 11th day of March, 1916, on the steamship “China,” and thereupon made application to enter into the United States as a citizen of the United States by virtue of being the foreign born son of Quan Hay, now deceased, who was a native-born citizen of the United States, and that the application of the said detained to enter the United States as a citizen thereof by virtue of being the foreign-born son of a native-born citizen of the

United States was denied by the said Commissioner of Immigration, and that appeal was thereupon taken from the excluding decision of the said Commissioner of Immigration to the Secretary of the Department of Labor and that the said Secretary thereafter dismissed the said appeal. That it is admitted that the said detained was admissible to the United States under the General Immigration laws thereof. That it is claimed by the said Commissioner that in all of the proceedings had herein the said detained was accorded a full and fair hearing; that the action of the said Commissioner and said Secretary was taken and made by them in the proper exercise of the discretion committed to them by the statutes in such cases made and provided and in accordance with the regulations promulgated under the authority contained in said statutes.

But, on the contrary, your petitioner, on his information and belief alleges that the hearing and proceedings had herein and the action of the said Commissioner and the action of the said Secretary was and is in excess of the authority committed to them by said rules and regulations and by said statutes and [4] that the denial of the application of the said detained, Quan Hing Sun, to enter into the United States, as the foreign-born son of a native-born citizen thereof, was and is an abuse of the authority committed to them by the said statutes in each of the following particulars hereinafter set forth:

FIRST.

Your petitioner alleges that the action of the

said Commissioner in denying the application of the said detained to enter the United States, as shown by the finding of the said Commissioner hereinafter mentioned, was based upon, first, the lack of belief in the existence of the relationship between the said detained and his said father, and second, upon the fact that both of the parents of said detained being dead that in the provisions of Rule 9 promulgated under the authority contained in the statutes hereinbefore referred to, that said detained, though a foreign-born son of a native-born citizen of the United States, was not a citizen of the United States and was not admissible into the United States because of the prior death of his said father, and that upon appeal from the said excluding decision of the said Commissioner to the Secretary of the Department of Labor the said secretary, who had formerly approved the promulgation of the said rule did, upon the authority of an opinion of the Attorney General of the United States just rendered, promptly thereafter decide, in conformity with said decision, that the citizenship status of the detained would not be affected by the prior death of his father; thus eliminating the second ground of denial, and your petitioner further alleges upon his information and belief that in deciding the first point of denial, to wit, the existence of the relationship between the said detained and the said Quan Hay, the said [5] Secretary held and decided that upon the evidence presented upon behalf of the said detained he would be admitted to enter the United States and his appeal sustained if he were

coming to this country to join his father, but because of the prior death of his father and the fact that he was an orphan coming to join his uncle that the said evidence which would have been held sufficient, as aforesaid, was for said reason held to be insufficient to establish the relationship, but in this connection your petitioner alleges that the said action of said Secretary was unlawfully discriminatory and denied to the said detained the equal protection of the laws of the United States and deprived him of his liberty without due process of law, in this, that it substituted for the real issue in the case that of the citizenship of the said detained, the collateral issue in question, as to who is going to care and provide for the said detained in the United States and that because the father of the said detained had previously died and was not therefore in the United States to care and provide for his son that the said evidence which would otherwise have been held sufficient to establish the citizenship of the said detained was for said reason discredited and the said detained denied the legal effect of said testimony and thus your petitioner alleges upon his information and belief that the action of the said Secretary in so denying the application of the said detained to enter the United States was in legal effect to circumvent the conclusions reached in the said opinion of the Attorney General of the United States by denying the said detained the right to enter the United States upon evidence which your petitioner alleges legally and lawfully establishes the fact that said detained was a citizen of the [6]

United States and that the action of the said secretary in so deciding was a manifest abuse of the discretion committed to him by the statutes in such cases made and provided, and resulted in denying the said detained the fair hearing to which he is entitled under the said statutes and said rules.

SECOND.

Your petitioner further alleges upon his information and belief that said detained has been unjustly and illegally discriminated against because, though a citizen of the United States as aforesaid, he is of the Chinese race and, therefore, notwithstanding his citizenship, the said Commissioner of Immigration proceeded to determine and deny the application of the said detained to enter the United States, which said action was contrary to and in violation of the terms and provisions of the Act of Congress of February 20th, 1907, as amended by the Act of Congress of March 25th, 1910, which said acts are commonly known as the General Immigration Laws, and that the said detained, being a citizen of the United States, his citizenship could only, under the said General Immigration Laws of the United States, be determined by a Board of Special Inquiry formed under the terms and provisions of the said Immigration Laws, and the said detained would then and there have an opportunity of presenting his evidence before such a Board of Special Inquiry, and in the event of the denial of his application to enter the United States as a citizen thereof, he would then and there have access to a complete copy of the record and hearings before the said board,

including the decision and findings thereof, so that he might offer evidence to overcome the reasons urged against the recognition of his claim of citizenship, and [7] that he might ask for a rehearing before the said board.

Your petitioner further alleges upon his information and belief that said detained, being a citizen of the United States, the said Commissioner of Immigration acted unlawfully and without statutory authority in proceeding to try and determine the rights of the said detained under the gauge and method provided in the said Chinese Exclusion or Restriction Acts, when the said detained, as such citizen of the United States, was entitled to, under and by virtue of the terms and provisions of the said General Immigration Laws, have his rights determined before a Board of Special Inquiry, consisting of three Immigration Inspectors, which is a right accorded to all persons other than Chinese claiming to be citizens of the United States whose right is denied or questioned by the Immigration Inspector upon original examination when such applicants for admission present themselves for admission into the United States.

THIRD.

Your petitioner further specifies that the evidence submitted upon the application of the said detained to enter the United States was of such a conclusive kind and character and was of such legal weight and sufficiency that it was an abuse of discretion upon the part of said Commissioner and the said secretary not to be guided thereby. And your petitioner al-

leges that the testimony given upon behalf of the said detained touching his right to admission into the United States, which consisted of the testimony of Quan Foo, the uncle of the said detained, and Quan Shew Hay. And your petitioner alleges upon his information and belief that the said testimony was of such a conclusive kind and character that to refuse to be guided thereby and to find in violation thereof was and is an abuse [8] of the discretion committed to the said Commissioner and the said secretary by the statutes in such cases made and provided. And you petitioner further alleges, upon his information and belief, that the adverse action of the said Commissioner and the said secretary was arrived at and was entered after denying to the said detained a fair hearing to the consideration of his case, to which he was entitled. And your petitioner further alleges upon his information and belief that the action of the said Commissioner and the said secretary in thus disregarding the said evidence was done in excess of the discretion committed to them by the Acts of Congress hereinbefore mentioned and was and is in violation of the Constitutional rights of the said detained as a citizen of the United States. And your petitioner further alleges, upon his information and belief, that the testimony of the said witnesses upon behalf of the said detained was discredited solely on the ground of their being members of the Chinese race and because they had not evidenced what the said secretary and the said Commissioner considered was a sufficient amount of American allegiance, without

having accorded or conducted any hearing to determine what American allegiance should consist of, and, further, in unlawfully holding and deciding that native-born citizens of the United States who are of the Chinese race and who maintain a domicile in a foreign land and who do not understand the English language and who do not evince civic interest to a degree satisfactory to the said Commissioner and the said secretary, are not in the same class and category as are all other citizens of the United States, and that for said reasons their said testimony is not to be weighed the same as is the testimony of all other citizens of [9] the United States; and because the said detained's father had died prior to the arrival of the said detained at the port of San Francisco that the said secretary and the said Commissioner thereupon injected into and permitted to influence their determination and decision in the case the element of the dependency of the said detained upon his father as a bar to the right of admission of the said detained into the United States. And your petitioner alleges upon his information and belief that had the same testimony as was presented herein upon behalf of the said detained been presented upon behalf of a person of any race other than a Chinese, that the said evidence would not have been so disregarded and discredited; and your petitioner further alleges therefore that the action of the said secretary and the said Commissioner was influenced against the said detained and his said witnesses solely because of their being of the Chinese race, and in disregard of

the fact that the father of the said detained was conceded to be a citizen of the United States by the said Commissioner and the said secretary.

FOURTH.

And your petitioner further alleges, upon his information and belief, that the action of the said Secretary of the Department of Labor is unlawful in this, that the measure of proof required by the said secretary is that such applicants for admission shall prove their cases beyond doubt, which is a requirement in excess of that laid down by the acts hereinbefore set forth, and that the action of the said secretary in making said requirement is in violation of said acts, and his said action predicated thereon is illegal and void; and, further, that said Rule 9 of the Immigration Rules and Regulations, a copy of which is hereunto annexed and marked exhibit "A," is unconstitutional in this, [10] that it divides citizens of the United States into different classes, giving certain classes greater rights and privileges than it does others; that is to say, giving citizens of fourteen years of age or under certain rights and privileges which it accords in a lesser degree to citizens between the ages of fifteen and eighteen years, and which it accords in a still lesser degree to citizens between the ages of eighteen and twenty-one years, within which latter class comes the detained herein; save that as applied to the said detained the said Rule 9 denies absolutely the right of citizenship to a son of a native-born citizen of the United States if the said son is upwards of twenty-one years of age and denies the right of admission

to a foreign-born son of a native-born citizen of the United States whose father dies prior to the son's claiming the right of admission into the United States—all in violation of the Constitution of the United States and the Revised Statutes thereof, and particularly section 1993 of the said Revised Statutes.

That your petitioner has not in his possession a full copy of the record and testimony taken by the said immigration authorities in the case of the said detained, but your petitioner has in his possession a copy of the Abstract Report of the Examiner in the case of the said detained and a copy of the finding of the said Commissioner; also a copy of the letter from the attorneys in Washington who appeared before the Secretary and handled said appeal there and which is the basis of the information herein set forth; also the original letter of the said Commissioner advising of the rejection of the said appeal, all of which are hereinafter annexed and marked exhibit "B." That your petitioner has not in his possession the remaining portions or parts of the said record, and is unable to obtain the same in [11] time to file with this petition; and that your petitioner is unable to obtain a copy of the finding or decision of the said Secretary of the Department of Labor upon his said appeal, and is so unable, for the reason that there is no copy thereof within the jurisdiction of this court, and for said reason your petitioner cannot file the same with this the said petition.

Your petitioner further alleges that it is the inten-

tion of the said Commissioner to deport the said detained out of and away from the United States, the land of which he is a citizen, and unless this Honorable Court intervene the said detained will be deported from the United States out of the port of San Francisco on the steamship "China," sailing at 1 o'clock P. M. May 24th, 1916, and the said detained will, unless this Court intervene, be deported from the land of which he is a citizen in violation of his rights guaranteed to him by the Constitution of the United States and the laws thereof.

Your petitioner further alleges that this petition is made for and upon behalf of the said detained for the reason that the said detained is a child of too tender years and not sufficient understanding to understand the said petition or verify the same upon his own account and that your petitioner therefore verifies the same upon behalf of the said detained, and upon behalf of the said uncle of the said detained, in whose custody and with whom the said detained has been living since his parole by the immigration authorities to the attorneys for the said detained prior to the denial entered in the case of the said detained by the said Commissioner. That the said uncle of the said detained employed and hired your petitioner to bring the said detained from Los Angeles to San Francisco for the purpose of surrendering him into the custody of the immigration authorities, [12] but that the uncle of the said detained will come to San Francisco at the time of the hearing hereinafter prayed for.

WHEREFORE, your petitioner prays that a writ of habeas corpus may be issued herein directed to the said Commissioner, ordering him to produce the body of the said detained before this Honorable Court at a time and place to be therein specified, together with the time and cause of the detention of the said detained, and for such other relief as to the Court may seem meet and proper in the premises.

JUNG LEM,
Petitioner.

GEO. A. MCGOWAN,
Attorney for Petitioner,
Bank of Italy Building
Clay and Montgomery Streets,
San Francisco, Cal.

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

Jung Lim, being first duly sworn, deposes and says:

That he is the petitioner named in the foregoing petition; that the same has been read and explained to him; that he knows the contents thereof; that the same is true of his own knowledge except as to those matters which are therein stated on his information and belief, and that as to those matters he believes it to be true.

JUNG LEM.

(Chinese Picture.)

[Seal] Photograph of Jung Lim, the Petitioner.

Subscribed and sworn to before me, this 16 day of May, 1916.

[Seal] C. W. CALBREATH,
Deputy Clerk, U. S. District Court, Northern District of California. [13]

**Petitioner's Exhibit "A"—Copy of Rule 9 of the
Immigration Rules and Regulations.**

RULE NINE.

(a) The Supreme Court having held that the lawful wife and children of a Chinese of the exempt classes may be admitted to the United States without presenting the certificate prescribed by Section 6 of the Act of July 5, 1884, and the theory of said judicial exception to the provisions of the Treaty and laws being that the dependent members of the household of a member of the exempt classes may enter without the prescribed certificate because the husband and father is entitled to the company of the wife and the care and custody of the children and because such wife and children having no status of their own, to require them to present the certificate would be to attempt to exact an impossibility, the following conditions are prescribed with respect to the proof that shall be exacted in the cases of such wives and children applying for admission.

(b) In every instance there shall be exacted convincing proof of the relationship asserted as the bases for admission. If the members of the household of the exempt apply in company with the latter, the certificate presented by the husband or father will be accepted as sufficient to cover the members

of his household. If the husband or father is domiciled in the United States, evidence shall be required concerning him of the character specified by section 2 of the Act approved Nov. 3, 1893, to establish the right of a domiciled merchant to readmission after temporary absence from the United States.

(c) In the absence of evidence to the contrary, it shall be assumed that a wife or unmarried daughter is a member of the household of the husband or father.

(d) Male children 14 years of age or under shall be conclusively presumed to be members of the father's household. Male children 15 years of age or over and under 18 years of age shall be presumed to be members of the father's household, but such presumption shall be subject to rebuttal. Such children 18 years of age or over and under 21 years of age shall be required to prove affirmatively and to the satisfaction of the Secretary of Labor that they are members of the father's household.

(e) No Chinese male 21 years of age or over shall be permitted to enter the United States otherwise than as of his own individual status and capacity as a member of the exempt classes and upon exhibition of the certificate prescribed by section six of the Act of July 5, 1884, irrespective of whether he is or is not a member of the household of his exempt father.

(f) The Supreme Court having held that a person of the Chinese race born in the United States is a citizen thereof under the Constitution, and persons of said race not being eligible to become citizens by naturalization, i. e. otherwise than by

birth within the limits of the country, but citizens of this country being entitled to the company of their wives and to the care and custody of their children, upon the same theory described in [14] paragraph (a) hereof, the dependent members of the household of a Chinese American citizen may be admitted to the United States without presenting the certificate required by section six of the act of July 5, 1884, and the following conditions are prescribed with respect to the proof that shall be exacted in such cases.

(g) In every instance there shall be exacted convincing proof of the citizenship of the alleged husband or father and of the relationship to him asserted as the basis for the applicant's claim to admission; and paragraphs (c), (d) and (e) hereof shall be observed in determining whether such applicants are entitled to admission as dependent members of the husband's or father's household.

(h) In the cases described in this rule the exempt status or citizenship of an alleged husband or father who is domiciled within the United States may be investigated and determined prior to the arrival of the wife or child, but no investigation regarding the claimed relationship shall be made until the wife or child arrives at a port of entry. [15]

**Petitioner's Exhibit "B"—Letter Dated May 11,
1916, Edward White to McGowan and Worley.**

U. S. DEPARTMENT OF LABOR.

Immigration Service.

In Answering refer to

No. 15077/5-30.

Office of the Commissioner
Angel Island Station.

San Francisco, Cal., May 11th, 1916.

Messrs. McGowan & Worley,

Bank of Italy Building,

San Francisco, Cal.

Sirs:

In re Quan Hing Sun, alleged son of native, ex. S. S.
China, March 11, 1916:

You are informed that the Department has affirmed the excluding decision of this office, but that it has directed that the child be not deported until he can be placed in the hands of some responsible person who will care for him on the return voyage and see that he is placed in proper custody upon his arrival in China.

Please communicate this information to the interested parties so that arrangements may be made by them for securing the services of a proper guardian.

Respectfully,

(Sgd.) EDWARD WHITE,

Commissioner.

CT/PW. [16]

RALSTON & RICHARDSON,
Attorneys & Counsellors at Law,
Union Savings Bank Bldg.,
Washington, D. C.

May 5, 1916.

Messrs. McGowan & Worley,
Bank of Italy Building,
San Francisco, Cal.

Gentlemen:—

IN RE: QUAM HING SUN.

We beg to confirm our night letter to you of to-day as follows:

“Case Quan Hing Sun recommended for denial holding that boy of 8 years should be able to give better testimony. Medical certificates eliminated. If applicant coming to join father under same circumstances would be admitted but coming to uncle makes Department suspicious. Can we strengthen record?”

The opinion of the Attorney General clears the first point in this case and the nativity of this applicant was not questioned by the Department. The Department also failed to refer to the medical testimony indicating the applicant to be about the age of five years. The Department assumed the applicant to be a boy of eight years, which age was necessary in order to permit of paternity and viewed the testimony as that given by a boy of that age. The memorandum for denial sets forth the discrepancies in the testimony of the applicant and the generally unsatisfactory manner in which the same was given. We, of course, endeavored to attribute this discrep-

ancy and the apparently unsatisfactory manner in which the same was given to the age of the applicant but the Bureau was not inclined to follow us in this theory. Mr. Parker, the chief law officer, in talking with us concerning this case frankly admitted that if the boy were coming to join his [17] own father under the same circumstances he would readily overlook discrepancies and admit the boy because of his extreme youth and because of his inability to labor ever if he so desired. He suggested, however, that the situation in the present case is different in that the boy is coming to join an uncle whose family is in China where presumably the boy could receive better attention in view of his age than he could receive in this country living with the uncle. The theory advanced by the Bureau is, of course, that this applicant is not a son of a native as claimed but is the child of someone else for whom his admission is attempted to be secured. If this boy had come as the adopted son of this uncle we believe we could have secured his admission but in view of his present claim to admission the Department would not consider the adoption of him by his uncle. Because of the extreme youth of this boy the Department in its memorandum has suggested that he be not deported until it can be arranged to return him in the custody of some reliable person that will insure a safe return of the applicant. In view of this disposition on the part of the Department we suggested that justice would be accomplished and the difficulties of this case obviated to allow the admission of this small boy, but Mr.

Parker, to whom matters of this kind are presented, would not agree with us in that. If, as under the old practice, we had had an opportunity to present this matter to Mr. Post we feel that he would have overlooked the technical features of the case and administered justice by admitting this boy. In view of his condition which we have fully explained to you can you *can you* conceive of any plan to strengthen this case and further [18] present the same to the Department? We are very dissatisfied with the outcome, but have presented the matter in every way conceivable to us.

Very truly yours,

(Sgd.) RALSTON & RICHARDSON.

JHR: LKC. [19]

INSPECTOR'S ABSTRACT REPORT.

In re: QUAM HING SUN, No. 15077/5-30
"CHINA" Mar. 11,

Name: Quam Hing Sun, no other. Affiant was born
on April 17th, 1908 (8 years old American Reck-
oning). Age 9, Chinese.

Destination: Los Angeles.

Father: Quan Hay, Quan Lung Hay, dead.

Is Father's American nativity established? Yes, by
landing No. 49 "Mongolia," June 20, 1908.

Is essential trip verified? Yes.

Children: 1 son, no girl.

When did father enter the United States? Claims
nativity.

How many trips has he made to China? One.

When did he return from last trip? 1908.

Did he mention the applicant at the time on any trip? Yes.

Is there prior landed brother? No.

Where is the mother? A. Dead.

How many wives has the father? One.

Is there resemblance between the alleged father and the applicant? Nothing special.

Supporting witnesses? Uncle Quan Foo and Quan Shew Hay.

When was he last in China? Uncle came back with the applicant. Quan Shew Hay came here in 1913.

What was the demeanor of the witnesses? OK except applicant, whose manner of testifying was very unsatisfactory.

Does the testimony disclose any discrepancies on essential points? Yes.

Do you believe the relationship exists? No.

Is your adverse opinion based on discrepancies? Yes.

Would your opinion be otherwise if you disregarded the discrepancies?

BECKTELL,
March 30th, 1916.

Finding.

After a full hearing and careful consideration of all the evidence submitted and adduced in the matter of the application of Quan Hing Sun for admission to the United States as the minor son of a native, the existence of the relationship claimed to his alleged father is not established to my satisfaction, and it further appears that both the parents of the

applicant are dead, and therefore he is inadmissible under the provisions of Rule 9. The application to land is accordingly denied, and the applicant advised of his right to appeal.

EDWARD WHITE.

March 30th, 1916.

[Endorsed]: Filed May 16, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [20]

In the District Court of the United States, in and for the Northern District of California, Division Number One.

No. 16,028.

In the Matter of QUAN HING SUN, on Habeas Corpus.

Order to Show Cause.

Good cause appearing therefor, and upon reading the verified petition on file herein, it is hereby ordered that Edward White, Commissioner of Immigration for the port and District of San Francisco, appear before this Court on the 3 day of June, 1916, at the hour of 10 o'clock A. M. of the said day, to show cause, if any he has, why a writ of habeas corpus should not be issued herein as prayed for, and that a copy of this order, with said petition, be served upon the said Commissioner.

AND IT IS FURTHER ORDERED that the said Edward White, Commissioner of Immigration aforesaid, or whoever, acting under the orders of the

said Commissioner or the Secretary of Labor, shall have the custody of the said Quan Hing Sun, are hereby ordered and directed to retain the said Quan Hing Sun within the custody of the said Commissioner of Immigration and within the jurisdiction of this Honorable Court until its further order herein.

Dated, San Francisco, California, May 16, 1916.

M. T. DOOLING,
United States District Judge.

[Endorsed]: Filed May 16, 1916. W. B. Maling,
Clerk. By T. L. Baldwin, Deputy Clerk. [21]

*In the District Court of the United States, in and
for the Northern District of California, First
Division.*

No. 16,028.

In the Matter of QUAN HING SUN, on Habeas
Corpus.

Return.

Now comes Edward White, Commissioner of Immigration at the port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the order to show cause, issued by the said Court on the petition of Jung Lim, in behalf of Quan Hing Sun, for a writ of habeas corpus, and to said petition, admits, denies and alleges as follows: DENIES that Quan Hing Sun, also known as the detained, is unlawfully imprisoned, detained, confined and restrained, or unlawfully imprisoned, or

detained, or confined, or restrained of his liberty by said Edward White, Commissioner of Immigration, for the port of San Francisco, at the Immigration Station at Angel Island, or elsewhere, or at all.

As to the following allegation on page 2 of said petition, namely: that it is admitted that the said detained was admissible to the United States under the General Immigration Laws thereof, respondent has no information or belief concerning said allegation sufficient to enable him to answer the same, and basing his answer upon said lack of information, denies that it is admitted that the said detained was admissible to the United States under the General Immigration Laws thereof, and in this connection respondent alleges that the admissibility of the said detained has never been passed upon by the Board of Special Inquiry, provided for by the said Immigration Laws, and that the said alien. [22] is still subject to an investigation by the said board.

DENIES that in deciding the question of the existence of the relationship between the said detained and the said Quan Hay, the said Secretary held and decided, or held or decided that upon the evidence presented upon behalf of the said detained, the said detained would be admitted to enter the United States and his appeal sustained if he were coming to this country to join his father, and in this connection respondent alleges that the said Secretary has never at any time taken the position that if the boy were coming to join his father in this country, and not his uncle, that he would have been permitted to enter the United States, and in this

connection, and in reply to the letter attached to the petition in the above-entitled matter, marked exhibit "A," directed to McGowan & Worley, and signed "Ralston & Richardson," respondent attaches hereto, incorporates into, and makes a part hereof, an original letter marked exhibit "A," directed to the Commissioner of Immigration, San Francisco, California, and signed Alfred Hampton, Assistant Commissioner General.

DENIES that because of the prior death of the said detained's father, and the fact that he was an orphan coming to join his uncle, or of either of said facts, that the said evidence presented by the said detained was held to be insufficient to establish the relationship.

DENIES that the said action of the said Secretary was unlawfully discriminatory or at all discriminatory and denied to the said detained equal protection, or any protection of the laws of the United States and deprived him of his liberty without due process of law.

DENIES that the said Secretary substituted for the real issue in the case, namely: that of the citizenship of the said detained, the collateral issue, or any other issue. [23]

DENIES that the action of the said Secretary in so denying the application of the said detained to enter the United States was in legal effect, or otherwise, to circumvent the conclusions reached in the said opinion or any opinion of the Attorney General of the United States, by denying said detained to enter the United States, or otherwise, or at all.

DENIES that the action of the said Secretary resulted in denying the said detained the fair hearing to which he is entitled under the laws of the United States.

DENIES that the detained has been unjustly and illegally, or unjustly, or illegally, discriminated against because he is of the Chinese race, or for any other reason, or at all.

DENIES that the action of the said Commissioner of Immigration was contrary to and in violation of the terms and provisions of the Acts of Congress of February 20, 1907, as amended by the Act of Congress of March 26, 1910.

DENIES that the citizenship of said detained could be determined only under the General Immigration Laws and by a Board of Special Inquiry confirmed under the terms and provisions of the said Immigration Laws.

DENIES that the said detained is a citizen of the United States; DENIES that the said Commissioner of Immigration acted unlawfully and without statutory authority, or unlawfully, or without statutory authority in proceeding to try and determine, or try, or determine, the rights of the said detained under the gauge and method, or under the gauge or method provided in the said Chinese Exclusion or Restriction Acts.

Alleges that the said Commissioner and Secretary were guided by the evidence submitted upon the application of the said detained to enter the United States in determining that the said detained [24]

should be denied admission into the United States and deported therefrom.

DENIES that the adverse action of the said Commissioner and the said Secretary, or the said Commissioner, or the said Secretary, was arrived at and was entered after denying to the said detained a fair hearing to the consideration of his case.

DENIES that any of the acts committed or done on the part of the said Commissioner, or the said Secretary, were in violation of the constitutional rights of the said detained, and in this connection respondent alleges that the said detained was given a full, fair and complete hearing before the Immigration officials, and that a proper consideration was given to all of the evidence adduced.

DENIES that the testimony of the witnesses on behalf of the said detained was discredited solely on the ground of their being members of the Chinese race and because they had not evidenced what the said Secretary and the said Commissioner considered was a sufficient amount of American allegiance, or because they were members of the Chinese race, or had not evidenced what the said Secretary and the said Commissioner, or the said Secretary, or the said Commissioner considered was a sufficient amount of American allegiance.

DENIES that the said Commissioner or the said Secretary ever discriminated between native born citizens or any citizens of the United States, because they are of the Chinese race, or for any other reason, or at all.

DENIES that had the same testimony as was pre-

sented herein, upon behalf of the said detained, been presented on behalf of a person of any race other than the Chinese, that the said evidence would not have been so discredited and disregarded, or discredited, or disregarded, and in this connection respondent alleges that had the said detained been a member of any race other than the Chinese, [25] and presented the same testimony as was presented in this case, the action of the said Secretary and the said Commissioner of Immigration would have been the same.

DENIES that the action of the said Secretary and the said Commissioner of Immigration, or the said Secretary, or the said Commissioner of Immigration, was influenced against the said detained and his witnesses, or the said detained, or his witnesses, solely because of their being of the Chinese race, or for any other reason or at all.

As a further separate and distinct answer and defense to the petition on file herein, respondent alleges that since the application of the said detained to enter the United States through the port of San Francisco, certain hearings have been conducted in behalf of the said detained, and testimony and other evidence has been taken concerning the right of the said detained to enter into and remain in the United States; that the said hearings were conducted and the testimony and other evidence taken by the immigration officials acting for and on behalf of the Government of the United States, and that all of the evidence and other testimony given or taken at said hearings have been recorded by the said immigra-

tion officials in a record known as the original record in the case of Quan Hing Sun, of the Bureau of Immigration; that said testimony and other evidence and all of the exhibits that were considered with the said record are by reference incorporated into and made a part of this answer and the same are filed herewith.

WHEREFORE, respondent prays that said petition for a writ of habeas corpus be denied and that the said alien be remanded to the custody of the respondent for deportation as provided for in said warrant of deportation heretofore issued by the Secretary of [26] Labor of the United States, and for such other and further relief as to this Court seems equitable and just.

JNO. W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney.

United States of America,

Northern District of California,

City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says: That he is a Chinese and Immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for and represent the respondent, Edward White, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within return to petition for writ of habeas corpus and knows the contents thereof; that it is impossible for the said

Edward White to appear in person or to give his attention to said matter; that of affiant's own knowledge the matters set forth in the return to petition for writ of habeas corpus are true, excepting those matters which are stated on information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 1 day of July, 1916.

[Seal] C. W. CALBREATH,
Deputy Clerk U. S. District Court, Northern Dis-
trict of California. [27]

Copy recd. July 1, '16.

G. A. McGOWAN,
Atty. for Petitioner.

[Endorsed]: Presented in open court and filed July 1, 1916. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. [28]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Saturday, the 30th day of September, in the year of our Lord, one thousand nine hundred and sixteen. Present: MAURICE T. DOOLING, District Judge.

No. 16,028.

In the Matter of QUAN HING SUN, on Habeas Corpus.

(Minutes—Re Immigration Record.)

This matter came on regularly this day for hearing of the return to the order to show cause herein. Geo. A. McGowan, Esq., appeared as attorney for and on behalf of petitioner and detained. C. A. Ornbaun, Esq., Assistant United States Attorney, was present on behalf of respondent and presented the Immigration Records as to detained, which the Court ordered filed as Respondent's Exhibits "A" and "B," and that the same be considered as a part of the original petition herein. Thereupon said matter was submitted on the records filed herein.

[29]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,028.

In the Matter of QUAN HING SUN, on Habeas Corpus.

(Order Discharging Writ of Habeas Corpus and Remanding Petitioner for Deportation.)

GEORGE A. MCGOWAN, Esq., Attorney for Petitioner.

JOHN W. PRESTON, Esq., United States Attorney and CASPER A. ORNBAUN, Esq., Assistant United States Attorney, Attorneys for Respondent.

ON RETURN TO WRIT OF HABEAS CORPUS.

It appears from the return herein, and the records of the Department introduced in support of it that the petitioner, now held for deportation, was excluded because the Department was not satisfied that petitioner was really the son of Quan Hay, an American citizen as claimed. The hearing accorded seems to have been fair, and the findings of the Department under such circumstances are not open to review in this proceeding.

The writ will therefore be discharged, and the petitioner remanded for deportation.

October 27th, 1916.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Oct. 27, 1916. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [30]

*In the District Court of the United States, in and
for the Northern District of California, South-
ern Division, First Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

Notice of Appeal.

To the Clerk of the above-entitled Court, and to the
Hon. JOHN W. PRESTON, United States
Attorney for the Northern District of Cali-
fornia:

YOU and each of you will please take notice that Quan Hing Sun, the detained herein, by Jung Lim, the petitioner herein, do hereby appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit from the order made and entered herein on the 27th day of October, 1916, dismissing the writ of habeas corpus and denying the petition herein.

Dated: San Francisco, California, Jan. 16th, 1917.

GEO. A. McGOWAN,

Attorney for Petitioner, Detained and Appellants,
Herein.

Due service and receipt of a copy of the within notice of appeal is hereby admitted this 16th day of January, 1917.

JNO. W. PRESTON,

U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Jan. 16, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [31]

*In the District Court of the United States, in and for
the Northern District of California, Southern
Division, First Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

Petition for Appeal.

COMES now Quan Hing Sun, the detained, by Jung Lim, the petitioner, who are the appellants herein, and say:

That on the 27th day of October, 1916, the above-entitled Court made and entered its order denying the petition for a writ of habeas corpus as prayed for and filed herein, in which said order certain errors are made to the prejudice of the appellants herein, all of which will more fully appear from the assignment of errors filed herein.

WHEREFORE these appellants pray that an appeal may be granted in their behalf to the Circuit Court of the United States for the Ninth Judicial Circuit for a correction of the errors so complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause as shown by the said United States Circuit Court of Appeals for the Ninth Circuit. It is further prayed that during the pendency of the said appeal that the said Quan Hing Sun may retain his liberty and remain at large under the order heretofore made herein, provided that he remains within the State of California and renders himself in execution of whatever judgment is finally entered herein.

Dated: San Francisco, California, January 16th, 1917.

G. A. McGOWAN,
Attorney for Petitioners, Detained and Appellants
Herein. [32]

Due service and receipt of a copy of the within petition for appeal is hereby admitted this 16 day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Jan. 16, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [33]

*In the District Court of the United States, in and for
the Northern District of California, Southern
Division, Division No. 1.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

Order Allowing Petition for Appeal.

On this 16th day of January, 1917, comes Quan Hing Sun, the detained herein, by Jung Lim, the petitioner herein, both of whom are appellants herein, by their attorney, George A. McGowan, Esquire, and having previously filed herein, did present to this Court their petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Judicial Circuit, intended to be urged and prosecuted by them, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Judi-

cial Circuit, and that such other and further proceedings may be had in the premises as may seem proper.

IN CONSIDERATION WHEREOF this Honorable Court does hereby allow the appeal herein prayed for, and orders and directs that the order of remand heretofore made and entered herein, and the order of deportation made by the Commissioner of Immigration of the port of San Francisco, State of California, and so affirmed by the Secretary of Labor, be stayed pending a hearing of the said case in the United States Circuit Court of Appeals for the Ninth Judicial Circuit, and it is further ordered that the said Quan Hing Sun may retain his liberty and remain at large under the order heretofore made herein, provided that he remain within the State of California [34] and render himself in execution of whatever judgment is finally entered herein.

Dated: San Francisco, California, January 16th, 1917.

M. T. DOOLING,
United States District Judge.

Due service and receipt of a copy of the within order allowing appeal is hereby admitted this 16 day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Jan. 16, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [35]

*In the District Court of the United States, in and for
the Northern District of California, Southern
Division, First Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

Assignment of Errors.

COMES now Quan Hing Sun, the detained herein, by Jung Lim, the petitioner herein, both of whom are appellants herein, by their attorney, George A. McGowan, Esquire, in connection with their petition for a hearing herein, assign the following errors which they aver occurred upon the trial or hearing of the above-entitled cause, and upon which they will rely, upon appeal to the Circuit Court of Appeals for the Ninth Judicial Circuit, to wit:

FIRST. That the Court erred in denying the petition for a writ of habeas corpus herein.

SECOND. That the Court erred in not holding that it had jurisdiction to issue a writ of habeas corpus, as prayed for in the petition herein.

THIRD. That the Court erred in not holding that the allegations contained in the petition herein for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus, as prayed for in the said petition.

FOURTH. That the Court erred in holding that the immigration authorities had accorded the appellant, Quan Hing Sun, a fair hearing in the matter of his application to enter the United States.

WHEREFORE, the appellants pray that the judgment and order of the United States District Court, in and for the Northern District of the State of California, made and entered herein in the [36] office of the clerk of said Court on the 27th day of October, 1916, discharging the order to show cause and dismissing the petition for a writ of habeas corpus be reversed, and that this cause be remitted to the said lower Court with instruction to discharge the said Quan Hing Sun from custody, or grant him a new trial before the lower Court, by directing the issuance of a writ of habeas corpus, as prayed for in the said petition.

Dated: San Francisco, California, January 16th, 1917.

GEO. A. McGOWAN,
Attorney for Appellants.

Due service and receipt of a copy of the within assignment of errors is hereby admitted this 16th day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent,

[Endorsed]: Filed Jan. 16, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [37]

(Citation on Appeal—Copy.)

UNITED STATES OF AMERICA.—ss.

The President of the United States, to the Honorable EDWARD WHITE, Commissioner of Immigration of the Port of San Francisco, and JOHN W. PRESTON, Esquire, the United States Attorney for the Northern District of California, His Attorney Herein, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division thereof, 1st Division, wherein Quan Hing Sun, the detained herein, and Jung Lim, the petitioner herein, are appellants, and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, on this 16th day of January, A. D. 1917.

M. T. DOOLING,
United States District Judge.

Service of the within citation and receipt of a copy thereof is hereby admitted this 16th day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: Filed Jan. 16, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [38]

*District Court of the United States, in and for
the Northern District of California, Southern
Division, First Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

**Stipulation and Order Respecting Withdrawal of
Immigration Record.**

IT IS HEREBY STIPULATED and agreed by and between the attorney for the petitioner and appellants herein, and the attorney for the respondent and appellee herein, that the original Immigration record in evidence and considered as part and parcel of the petition for a writ of habeas corpus upon hearing of the demurrer in the above-entitled matter, may be withdrawn from the files of the clerk of the above-entitled Court and filed with the clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit, there to be considered as part and parcel of the record on appeal, in the above-entitled case with the same force and effect

as if embodied in the transcript of the record and so certified to by the clerk of this Court.

Dated: San Francisco, California, January 17, 1917.

GEO. A. MCGOWAN,
Attorney for Petitioner and Appellant.

JNO. W. PRESTON,
United States Attorney for the Northern District of
California,
Attorney for Respondent and Appellee. [39]

Order.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said Immigration record therein referred to, may be withdrawn from the office of the clerk of this Court and filed in the office of the clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified to by the clerk of this Court.

M. T. DOOLING,
United States District Judge.

Dated: San Francisco, California, January 18th, 1917.

Due service and receipt of a copy of the within stipulation and order is hereby admitted this 17th day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney, Northern District of California,
Attorney for Respondent.

[Endorsed]: Filed Jan. 18, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [40]

*District Court of the United States, in and for the
Northern District of California, Southern Division,
First Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

**Stipulation and Order Extending Time to Docket
Case.**

Good cause appearing therefor, and upon motion
of George A. McGowan, Esquire, attorney for the
petitioner and appellants herein,—

IT IS HEREBY ORDERED that the time within
which the above-entitled case may be docketed in the
office of the clerk of the United States District Court
of Appeals for the First District, may be and the
same hereby is extended for the period of thirty (30)
days from and after the date hereof.

Dated San Francisco, California, February 15th,
1917.

M. T. DOOLING,
United States District Judge.

The making of the foregoing order is hereby stipu-
lated and agreed to by and between the counsel for
the respective parties hereto.

JNO. W. PRESTON,
United States Attorney for the Northern District
of California,

Attorney for Respondent and Appellee.

GEO. A. MCGOWAN,
Attorney for Petitioner and Appellant.

[Endorsed]: Filed Feb. 15, 1917. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [41]

District Court of the United States, in and for the Northern District of California, Southern Division.

No. 16,028.

In the Matter of the Application of QUAN HING SUN, on Habeas Corpus.

Stipulation and Order Extending Time to Docket Case.

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the petitioner and appellants herein,

IT IS HEREBY ORDERED that the time within which the above-entitled case may be docketed in the office of the clerk of the United States *District* Court of Appeals for the *First* District, may be and the same hereby is extended for the period of thirty (30) days from and after the date hereof.

Dated San Francisco, California, March 17th, 1917.

WM. W. MORROW,

Judge United States *Circuit of Appeals.*

The making of the foregoing order is hereby stipulated and agreed to by and between the counsel for

the respective parties hereto.

JNO. W. PRESTON,

United States Attorney for the Northern District of
California,

Attorney for Respondent.

GEO. A. MCGOWAN,

Attorney for Petitioner and Appellant.

[Endorsed]: Filed Mar. 17, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [42]

*District Court of the United States, in and for the
Northern District of California, Southern Divi-
sion.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

**Stipulation and Order Extending Time to Docket
Case.**

Good cause appearing therefor, and upon motion
of George A. McGowan, Esquire, attorney for the
petitioner and appellants herein,

IT IS HEREBY ORDERED that the time within
which the above-entitled case may be docketed in the
office of the clerk of the United States *District* Court
of Appeals for the *First* District, may be and the
same hereby is extended for the period of thirty (30)
days from and after the date hereof.

Dated San Francisco, California, April 14th, 1917.

M. T. DOOLING,

United States District Judge.

The making of the foregoing order is hereby stipulated and agreed to by and between the counsel for the respective parties hereto.

JNO. W. PRESTON,
United States Attorney for the Northern District of
California,

Attorney for Respondent.

GEO. A. McGOWAN,
Attorney for Petitioner and Appellant.

[Endorsed]: Filed Apr. 14, 1917. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [43]

*District Court of the United States, in and for the
Northern District of California, Southern Division.*

No. 16,028.

In the Matter of the Application of QUAN HING
SUN, on Habeas Corpus.

**Stipulation and Order Extending Time to Docket
Case.**

Good cause appearing therefor, and upon motion of George A. McGowan, Esquire, attorney for the petitioner and appellants herein,

IT IS HEREBY ORDERED that the time within which the above-entitled case may be docketed in the office of the clerk of the United States District Court of Appeals for the First District, may be and the same hereby is extended for the period of twenty (20) days from and after the date hereof.

Dated, San Francisco, California, May 12th, 1917.

M. T. DOOLING,

United States District Judge.

The making of the foregoing order is hereby stipulated and agreed to by and between the counsel for the respective parties hereto.

JNO. W. PRESTON,

United States Attorney for the Northern District of California,

Attorney for Respondent.

GEO. A. McGOWAN,

Attorney for Petitioner and Appellant.

[Endorsed]: Filed May 12, 1917. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [44]

Certificate of Clerk U. S. District Court to Transcript on Appeal.

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 44 pages, numbered from 1 to 44, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the matter of Quan Hing Sun, on habeas corpus, No. 16,028, as the same now remain on file and of record in the office of the clerk of said District Court; said transcript having been prepared pursuant to and in accordance with "Amended Praeceptum for Transcript on Appeal" (copy of which is embodied in this transcript), and the instructions of the attorney for the petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Twenty-one Dollars and Seventy Cents (\$21.70), and that the same has been paid to me by the attorney for the appellant herein.

Annexed hereto is the original Citation on Appeal, issued herein (page 46).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 25th day of May, A. D. 1917.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

CMT. [45]

(Citation on Appeal—Original.)

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the Honorable EDWARD WHITE, Commissioner of Immigration of the port of San Francisco, and JOHN W. PRESTON, Esquire, the United States Attorney for the Northern District of California, His Attorney Herein, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern

District of California, Southern Division thereof, 1st Division wherein Quan Hing Sun, the detained herein, and Jung Lim, the petitioner herein, are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, on this 16th day of January, A. D. 1917.

M. T. DOOLING,
United States District Judge. [46]

Service of the within citation and receipt of a copy thereof is hereby admitted this 16th day of January, 1917.

JNO. W. PRESTON,
U. S. Attorney.

[Endorsed]: No. 16,028. United States District Court for the Northern District of California, Southern Division, 1st Division. Quan Hing Sun, and Jung Lim, Appellants, vs. Edward White, Commissioner of Immigration, and John W. Preston, U. S. Attorney. Citation on Appeal. Filed Jan. 16, 1917. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

[Endorsed]: No. 3039. United States Circuit Court of Appeals for the Ninth Circuit. Quan Hing Sun and Jung Lim, Appellants, vs. Edward White, Commissioner of Immigration of the Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, First Division.

Filed August 25, 1917.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.